

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 93-00357

04 1993

COUNSEL: None

HEARING DESIRED: Yes

131.01

APPLICANT REQUESTS THAT:

1. All nonselections for promotion to the grade of major, beginning with the CY86B Central Major Board, be set aside.
2. He receive direct promotion to the grade of major as if selected by the CY86B Central Major Board.
3. He be reinstated to active duty and awarded all back pay and allowances and all other entitlements associated by retroactive promotion to major.

APPLICANT CONTENDS THAT:

Applicant alleges the central major selection boards, and the special selection boards which considered his record for promotion, were held in direct violation of statute, DoD Directive and/or Air Force Regulations. Additionally, the scoring system employed by these boards was clearly arbitrarily and capriciously established not to provide fair and equitable consideration, but rather to minimize the potential for a considernee to gain selection from this process. Applicant believes he has been denied fair and equitable consideration and that the nonselections are without effect.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

Applicant has five promotion nonselections; CY86B, CY87, CY88, CY89, and CY 91 Central Major Boards. There was no Central Major Board in CY90. In addition, applicant was granted a Special Selection Board (SSB) for CY86B and CY87 on 28 March 1988, and a SSB for CY89 on 27 April 1992. Applicant has since been separated from the Air Force effective 31 August 1992.

AIR STAFF EVALUATION:

The Chief, Appeals & Analysis Branch, AFMPC/DPMAJA, states that the applicant asserts to have clearly proven his claimed injustices. However, his appeal reveals that his case consists only of unsubstantiated opinions and incorrect interpretations of both personnel regulations and the law. Additionally, it is important to note that at no point has the applicant claimed that there exists any uncorrected errors in his record. They believe it is quite clear he has received full and fair consideration for promotion. They recommend the applicant's appeal be denied.

A complete copy of the Air Staff evaluation is attached at Exhibit C.

APPLICANT'S REVIEW OF AIR STAFF EVALUATION:

In summary, applicant states that the evidence is clear there is no basis to time bar his petition. He also believes there were illegal MLEBs, illegally conducted Central Selection boards and violation of Air Force Regulations. Applicant states that clearly the facts are not disputed with evidence: (1) Specific corrective actions is indeed within the purview of the Board, (2) No evidence has been presented which would support the AFMPC recommendation the Board not correct his record to promotion, and (3) without evidence to the contrary, it is clear such promotion should be granted.

A complete copy of applicant's response is attached at Exhibit E.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Applicant makes numerous assertions and challenges the promotion board, special selection board and the MLEB process. However, it appears that applicant's assertions are based solely on unsubstantiated opinions and incorrect interpretations of the law and regulations. The Chief, Appeals and Analysis Branch, in his advisory of 4 February 1993, has accurately addressed these issues and we are in complete agreement with his comments and recommendations.
4. With regard to applicant's issue concerning the impact the voided 13 May 1983 OER had on his assignments, we observe that there is no assignment policy which prescribes that a member with a

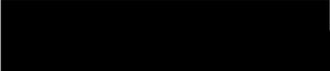
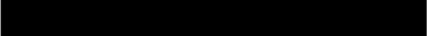
voided OER be considered for assignment any differently than other officers. Based on the correction of his records, we are convinced he has been afforded appropriate relief and his records were given fair and equitable consideration for assignments. In the absence of substantial evidence to the contrary, we find no compelling basis to recommend granting the relief sought in this application.

5. The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issue(s) involved. Therefore, the request for a hearing is not favorably considered.

THE BOARD DETERMINES THAT:

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 4 June 1993, under the provisions of AFR 31-3:

 Panel Chairman
 Member
 Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 22 Jul 92, with atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFMPC/DPMAJA, dated 4 Feb 93.
- Exhibit D. Letter, AFBCMR, dated 12 Feb 93.
- Exhibit E. Applicant's Letter, dated 19 Apr 93, with atchs.


Panel Chairman